

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS

United States Courts  
Southern District of Texas  
FILED

NOV 02 2021

Nathan Ochsner  
Clerk of Court

VICTORIA DIVISION

UNITED STATES OF AMERICA

v.

NELSON BAHENA-GARCIA  
AKA PINCHON

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CRIMINAL NO. V-18-64S

**STIPULATION OF FACTS**

The defendant, NELSON BAHENA-GARCIA, and Fabian Guerrero, the defendant's counsel have agreed to stipulate with the Acting United States Attorney for the Southern District of Texas, Jennifer B. Lowery, through the undersigned Assistant United States Attorney, to the following facts. The parties agree that these facts are sufficient to establish a factual basis for the defendant's plea, pursuant to Fed. R. Crim. P. 11(b) (3).

**I.**

The defendant confesses that within the Southern District of Texas on or about  
Between on or about May 22, 2018 and on or about May 27, 2018;

- 1) The defendant did knowingly and intentionally conspire and agree with one other person to seize or detain another person;
- 2) The defendant threatened to kill, injure, or continue to detain another person; who is not a national of the United States; and
- 3) The defendant made the threats with the purpose of compelling a third person or government entity to do or abstain from doing any act, that is; to pay a sum of money as an explicit and implicit condition for the release of the foreign national.

**II.**

The defendant further stipulates that had the case proceeded to trial the United States would have called credible witnesses who would have testified that:

On May 28, 2018, HSI Corpus Christi received information from the U.S. Border Patrol (USBP) revealing that they had received information from a concerned citizen, later identified as Daniel Rios-Perez (Rios), concerning his fiancée, H.Y.B.C. Rios was requesting the assistance of locating H.Y.B.C. USBP also advised HSI Corpus Christi that the Victoria County Sheriff's Office (VCSO) had discovered the body of a female in Victoria County that matched the identifiers provided by Rios.

Later that day, Victoria HSI Special Agent Carl Marshall contacted Rios by telephone. Rios told Agent Marshall that he had been in contact with a smuggler known to him as "GARCIA" (later identified as the Defendant NELSON BAHENA-GARCIA thereafter GARCIA). Rios had communicated via text message to GARCIA. In fact, Rios, admittedly a citizen and national from Mexico illegally present in the U.S., had been previously smuggled to the U.S. using GARCIA to arrange the smuggling. Rios had also recommended GARCIA as a smuggler to various family members from Mexico and recently used GARCIA to smuggle his fiancée, H.Y.B.C, a citizen and national of the Republic of Honduras with no legal documentation to be in the United States, from Mexico to Houston, Texas. Rios had used the same number for GARCIA for years. Rios identified this number as XXXXXX-6285.

Furthermore, in a recent text communication, GARCIA informed Rios that while walking in the brush near Falfurrias, Texas, H.Y.B.C had begun a menstrual bleed that was excessive to the point that H.Y.B.C was unable to travel and eventually lost consciousness. She was eventually carried to the transport vehicle that was to be used to carry H.Y.B.C and the rest of the group to Houston. GARCIA later sent a text message to RIOS that H.Y.B.C had been dropped off on the side of Highway 59 at the southern edge of the Victoria City limits.

Victoria HSI Agent Marshall then contacted VCSO Investigator Anthony Daniel. Investigator Daniel is the investigator assigned to the death investigation for the body found in

Victoria County. According to Investigator Daniel, the body, identified through identification documents found on person as H.Y.B.C, was found nude in a ditch in Victoria County on May 28, 2018, at approximately 10:00 in the morning. Daniel Rios told Daniel that H.Y.B.C had been with two (2) people from Edinburg, Texas. RIOS went on to say that he did not know them names of these people but communicated with them via cellular telephone number XXXXX-6285.

Rios consented to allow HSI agents to conduct a search of his personal cellular telephone. A search of this cellular telephone revealed a contact listed as "Pichon" with associated telephone number XXXXX-6285. Review of the text message data revealed text messages from his cellular telephone to Pichon on the early morning of May 27, 2018, and the context of those text were in regards to the well-being of Rios' fiancée, H.Y.B.C.

On May 29, 2018, based on exigent circumstances and for the safety and protection of the public, AT&T granted an emergency "Ping Order" for the cellular telephone facility assigned phone number XXXXX-6285 for a twenty-four (24) hour period. AT&T provided information indicating that the cellular telephone is prepaid without associated subscriber or payment history. On May 30, 2018, the Honorable U.S. Magistrate Judge Jason B. Libby, in the Southern District of Texas, Corpus Christi division signed an Order authorizing the Tracking of the Cellular Telephone Facility assigned Phone Number XXXXX-6285.

As a result of these aforementioned authorizations, electronic data was provided to HSI Special Agents/Technical Agents which allowed those agents to locate the person utilizing the cellular telephone facility utilizing telephone number XXXXX-6285.

On May 29, 2018, HSI McAllen agents were conducting surveillance of the person using cellular telephone facility utilizing telephone number XXXXX-6285 and took a photograph of this person in McAllen, Texas.

On June 2, 2018, the photograph of the person using the cellular telephone XXXXX-6285 taken by McAllen HSI agents was shown to Daniel Rios. Daniel Rios confirmed this person as the same person he knew as GARCIA.

Tony Daniels Victoria County Sheriff Office (VCSO) would testify about H.Y.B.C's condition, the manner of death and location where she was found. H.Y.B.C's phone dump revealed an image of a Western Union receipt for her smuggling payment that was also found saved on GARCIA's cell phone.


A phone location ping from the victim's phone was sent to her fiancé, identifying the location of GARCIA's stash house in Mission, Texas. Daniels would provide testimony concerning post arrest, post Miranda, confession by GARCIA to being the organizer; to housing and transporting aliens, to include the victim. GARCIA's phone dump has a saved image of a WU receipt, identified as the victim's partial smuggling payment of \$300.

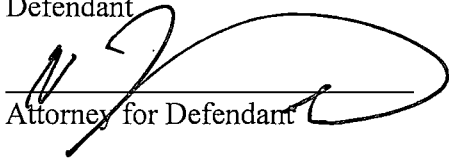
Daniel Rios-Perez (PEREZ) would testify he himself smuggled into the U.S. by GARCIA's organization in approximately May, 2013. GARCIA's organization has successfully smuggled 10+ family members of Rios into the U.S. Rios worked for GARCIA's organization in years following, as a roofer in Florida, where he observed GARCIA and his family members smuggling illegal immigrants into the U.S. and put them to work for the family-run business. Arranged and made plans for the victim to be smuggled by GARCIA's organization. Rios made smuggling payments for the victim, and at GARCIA's direction, wired the payment to Yulissa DelaSancha (indicted co-conspirator). Rios was in communication with GARCIA before, during, and after smuggling event/death of victim. He begged for release or medical attention for the victim but was denied until smuggling costs were paid in full. He provided investigators with a Facebook Messenger conversation with GARCIA reference the death of the victim and how she had died while in GARCIA's care.

Kenneth Cascante(Cascante) a traveling companion of the victim would testify that he had witnessed GARCIA transporting aliens, operating the stash house, using threats and intimidation to control the smuggled aliens. Cascante obtained and sent images taken at the Mission, TX stash house of GARCIA and the victim together. He also, identified GARCIA in a photo lineup as the organizer, stash house operator. Cascante identified Jorge Garcia-Bahena, (indicted co-conspirator) in photo lineup as GARCIA's own brother and brush guide. Cascante requested medical attention for the victim but was denied, as her smuggling fees were not yet paid in full. He then had his mother, (a nurse), telephonically recommend medical treatment for victim before she perished but her advice was also rejected. Cascante witnessed telephone conversations between GARCIA and Jorge Garcia-Bahena regarding the victim's health status from her time of collapse in brush, throughout transport to Houston. This included GARCIA's direction to Jorge Garcia-Bahena to leave the victim behind to die in the brush.

DeLaSancha who wired alien smuggling funds for GARCIA's smuggling organization. DeLaSancha was originally recruited by GARCIA and his brothers at a restaurant in Houston, TX in 2016 or 2017. She acted as a financial go-between, buffering GARCIA's organization from the smuggling families making payments, by forwarding payments via MSB, and being repaid 20% of the funds she submitted to the organization members. She received a Western Union smuggling fee from Daniel Rios-Perez for his fiancée (victim) for GARCIA. Subpoena records of DeLaSancha MSB use reveals a financial relationship with GARCIA's organization using numerous different services over several years. DeLaSancha received substantial funds from numerous different persons in different states and countries, and then transferred the funds to identified family members of GARCIA's smuggling organization in Mexico and South Texas.

The undersigned have thoroughly reviewed, understand, and agree that the information contained in this Stipulation of Fact is true and correct.

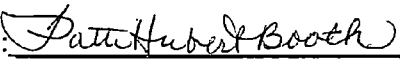
  
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NELSON BAHENA-GARCIA  
Defendant

  
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Attorney for Defendant

11-02-2021  
Date

11-02-2021  
Date

JENNIFER B. LOWERY  
ACTING UNITED STATES ATTORNEY

By:   
\_\_\_\_\_  
PATTI H. BOOTH  
Assistant United States Attorney